

## ARTICLE 9

## USE REGULATIONS

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### Sec. 5.9.01. Purpose and Intent.

- A. It is recognized by this Chapter that certain unique uses cannot easily be evaluated in the same manner as other uses because of their potential to adversely affect public health, safety and welfare; establish a public nuisance; conflict with the character of a neighborhood; impair

the social and economic well-being of neighboring properties; impair the general development of an area; or operate in a manner contrary to the purpose and intent of this Chapter.

- B. However, when properly regulated, these uses can make a positive contribution to the economic vitality of the city. Therefore, it is the purpose of this Article to impose reasonable regulations upon certain uses to provide an adequate approval process while moderating their potential adverse effects on surrounding and neighboring properties.

**Sec. 5.9.02. Applicability.**

A. Use Regulations and Approval Process of Table 5.9.02.

1. Director Review. All uses shall be in accordance with the provisions of Section 5.12.16.
2. Counter Reviews. All uses listed shall be in accordance with the provisions of Section 5.12.16.
3. Qualified Review. All uses listed shall be in accordance with the provisions of Section 5.12.16.D.
4. Special Land Uses. All uses listed shall be in accordance with the provisions of Section 5.12.09. Unless otherwise stated within this Article, the Planning Commission shall have the authority to waive or alter the Use Regulations contained in this Article provided the standards of Section 5.12.12.E. are substantially met.

B. Summary of Use Regulations.

1. Table 5.9.02. shows the principal and accessory uses subject to regulations of this Article in addition to those listed in the Use Tables of the applicable Zone District, and the approval process for those uses within each Zone District.
2. Districts. The following Zone Districts and abbreviations shall apply for Table 5.9.02.
  - a. LDR - Low-Density Residential
  - b. MDR - Mixed-Density Residential
  - c. NOS - Neighborhood Office Service
  - d. CC - City Center
  - e. TCC - Transitional City Center
  - f. TBA - Traditional Business Area
  - g. TOD - Transit-Oriented Development
  - h. C - Commercial
  - i. OS - Open Space
  - j. IT - Industrial Transportation

k. – Not applicable

Table 5.9.02. Use Regulations and Approval Process						
Use		Section	Counter Review	Director Review	Qualified Review	Special Land Use
Accessory dwelling units		5.9.03.	—	CC, TCC, TBA, TOD, C, NOS	LDR, MDR	—
Adult day care center		5.9.04.	—	CC, TCC	—	LDR, MDR, TBA, TOD, C, NOS
Adult foster care	Adult foster care family home	5.9.04.	LDR, MDR, CC, TCC, TBA, TOD, C, NOS	—	—	—
	Adult foster care small group	5.9.04.	—	CC, TCC	—	LDR, MDR, TBA, TOD, C, NOS
	Adult foster care large group	5.9.04.	—	CC, TCC	—	LDR, MDR, TBA, TOD, C, NOS
Alcohol sales, consumption, and production		5.9.05.	—	Table 5.9.05.B.	—	Table 5.9.05.B.
Auditorium, theatre and banquet hall		5.9.07.	—	CC	—	TCC, TBA, TOD, C, NOS, IC
Bed and breakfast		5.9.08.	—	CC, TCC, TBA, TOD, C, NOS, MDR	—	LDR
Child care centers		5.9.09.	—	CC, TCC, TBA, C	—	LDR, MDR, TOD, NOS
Drive-in or drive-through facilities		5.9.10.	—	—	—	All Uses: CC, TCC, TBA, TOD, C, PRD
						NOS: Banks, Credit Unions, and Financial Services Offices
Electrical substations and private utilities		5.9.11.	—	CC, TCC, TBA, TOD, C, NOS, IT, LDR, MDR	—	—
Entertainment, live		5.9.12.	—	CC	—	TCC, TBA, TOD, C, OS
Helistops and heliports		5.9.13.	—	—	—	Helistops Only: CC, TCC. Both: IT.
Home occupations		5.9.14. Chapter 116	LDR, MDR, CC, TCC, TBA, TOD, C, NOS	—	—	—
Live-work units		5.9.16.	CC, TCC	TBA, TOD, C, NOS	—	LDR, MDR

<b>Table 5.9.02. Use Regulations and Approval Process</b>					
Use	Section	Counter Review	Director Review	Qualified Review	Special Land Use
Manufactured housing community	5.9.17.	—	LDR, MDR	—	—
Marihuana Facilities	5.9.19		See Table 5.9.19.D.		See Table 5.9.19.D.
Materials recovery, recycling, wrecking and salvage	5.9.18.	—	—	—	OS, IT, TCC
Mobile Food Vending	5.9.15.	—	NOS, IT	CC, TCC, TBA, TOD, C	—
Multiple-family dwellings	5.9.20.	MDR	CC, TCC, TBA, TOD, C, NOS, IC	—	LDR
Mineral extraction	5.9.21.	—	IT	—	LDR, MDR, OS
Outdoor activities (excluding vehicle sales)	5.9.22.	—	CC, TCC, TBA, TOD, C	—	
Outdoor recreational fields	5.9.23.	—	CC, OS	—	TCC, TBA, TOD, C, NOS, IC
Outdoor seating areas	On or adjacent to public sidewalk	5.9.24.	CC, TCC, TBA, TOD, C	—	—
	Rooftop, side and rear yard	5.9.24.	—	—	CC, TCC, TBA, TOD, C
Overhead walkways or other connections	5.9.25.	—	—	—	CC, TCC, TOD
Parking structures	5.9.26.	—	CC, TCC, TOD, IT	—	TBA, C
Recycling collection stations	5.9.27.	—	CC, TCC, TBA, TOD, C	—	LDR, MDR, NOS
Regulated uses	5.9.28.	—	IT	—	
Residential rehabilitation facility	5.9.29.	—	CC, TCC	—	LDR, MDR, TBA, TOD, C, NOS
Rooming and boarding house	5.9.30.	—	CC, TCC	—	LDR, MDR, TBA, TOD, C, NOS
Self-storage facilities	5.9.31.	—	IT	—	CC, TCC, C
Single room occupancy	5.9.32.	—	CC, TCC, TBA, TOD, C, NOS	—	MDR
Social or service clubs, motorcycle clubs	5.9.33.	—	CC	—	TCC, TBA, TOD, C, NOS
Social service facilities	5.9.34.	—	CC, TCC, TBA, C	—	LDR, MDR, TOD, NOS
Temporary structures and uses	5.9.35.	LDR, MDR, CC, TCC, TBA, TOD, C, NOS	—	—	—

**Table 5.9.02. Use Regulations and Approval Process**

Use		Section	Counter Review	Director Review	Qualified Review	Special Land Use
Transitional or emergency shelter		5.9.36.	—	CC, TCC	—	MDR, TBA, TOD, C, NOS
Vehicle fuel stations (without vehicle repair)		5.9.38.	—	C, IT	—	CC, TCC, TBA
Vehicle sales or rental	New vehicles	5.9.39.	—	C	—	—
	Used vehicles		—	—	—	C
Vehicle service or repair		5.9.40.	—	C, IT	—	CC, TCC, TBA
Wireless communications facilities	Co-located antennas	5.9.41.	—	LDR, MDR, CC, TCC, TBA, TOD, C, NOS, IT, IC, OS	—	—
	Freestanding towers		—	—	—	C, IC, IT
Zoo		5.9.42.	See Section 5.7.05.F of Special District - Institutional Campus.			

### Sec. 5.9.19. Marihuana Facilities.

- A. Purpose. The concentration of any one use within a smaller geographic area can be burdensome for reasons of excessive parking needs and/or traffic congestion where there is high demand and can limit the type and variety of businesses that might otherwise exist if there is an oversaturation. The City of Grand Rapids Master Plan describes the desire for mixed-use commercial zone districts and encourages a variety of land uses. It the intent of these provisions to ensure that quality of life is not impaired, neighborhood character is preserved, commercial retail viability and variety is enhanced and encouraged, or the stability of industrial areas is maintained.
- B. Applicability. Any land use that requires a license from the Department of Licensing and Regulatory Affairs (LARA) in the administration of Michigan Medical Marihuana Facilities Licensing Act (MMFLA), Michigan Regulation and Taxation of Marihuana Act (MRTMA) or other state law providing for the sale, transport, testing, growing, distribution, and processing of marihuana or any other activity involving a marihuana-related use shall require review and approval as specified in Table 5.9.19.D. Any facility not specifically authorized in Table 5.9.19.D is prohibited. Provisions of this section do not apply to the medical use of marihuana in compliance with the Michigan Medical Marihuana Act (MMMA).
- C. The Planning Commission is prohibited from waiving any portion of this Section, except as specifically authorized by Section 5.9.19.E.6. At the Director's discretion, any Director Review application may be forwarded to the Planning Commission for Special Land Use approval if the Director deems that the application could benefit from a review by the Commission.
- D. Approval Procedures for Marihuana Facilities.
1. License Type. Marihuana facilities are permitted in accordance with the approval procedures described in Table 5.9.19.D. Licensed facilities may be co-located on the same parcel as allowed by Section G.2. and each license type shall be separately subject to the approval procedures described below.
  2. Conversion. Conversion between license types is permitted in accordance with the approval procedures described in Table 5.9.19.D.

Table 5.9.19.D. Approval Procedures for Marihuana Facilities				
License Type	Description	Criteria	Review Procedure	GNP Required
Provisioning Center (Medical) or Retailer (Recreational)	New or expansion	IT (co-located accessory use only, under 5,000 sq. ft.)	DR	No
		IT (co-located accessory use only, 5,000 sq. ft. or more)	SLU	No
		TCC, TBA, TOD, C, NOS, PRD	SLU	Yes
	New or expansion	TCC	SLU	Yes

Table 5.9.19.D. Approval Procedures for Marihuana Facilities						
License Type		Description		Criteria	Review Procedure	GNP Required
Grower (Medical or Recreational)	Any Class			IT	DR	No
Processor (Medical or Recreational)		New		IT, TCC, TBA, C, TOD, PRD: Under 15,000 sq. ft. GFA	DR	IT: No
						Other zones: Yes
						IT, TCC, C: 15,000 sq. ft. or more GFA
		Expansion	Minor	Under 20% GFA increase	DR, after initial approval	No
			Major	20% GFA increase or more	Same as New	No
Secure Transporter (Medical or Recreational)		New or expansion		IT	DR	No
				TCC	SLU	No
Safety Compliance Facility (Medical or Recreational)		New or expansion		CC, TCC, TOD, C, NOS, IT, or TBA upper floor	DR	No
				TBA ground floor	SLU	No
(SLU = Special Land Uses; DR = Director Review; GNP = Good Neighbor Plan)						

### 3. Considerations.

- a. During the approval process regulations for these facilities must take into consideration the use type and type of activities, hours of operation, excessive use of police resources which could reasonably be anticipated to be generated by the proposed establishment, both outside and inside, with particular emphasis upon noise, calls for service, trespass enforcement, parking, vehicular use by patrons, and vandalism and the secondary effects resulting from these uses. More specifically, these may include the hours of operation of the proposed establishment will have upon neighboring properties, with attention to the effects of noise, odors, litter, loitering, parking, and glare from exterior lighting or headlights on nearby residential properties.
- b. A marihuana facility is not eligible for a state operating license until the Planning Director or Planning Commission grants approval using the defined process, as described in Table 5.9.19.D. and in Article 12, Section 5.12.09. The City Clerk will grant final authorization for the facility upon receipt of the signed resolution of approval.

### E. Separation Distances and Waivers.

#### 1. Purpose.

- a. Marihuana businesses have demonstrated a strong demand for storefront spaces and other business locations. It has been observed that without separation distances between these facilities and certain other land uses marihuana facilities can tend to concentrate in clusters. It is further recognized that these uses which, because of their very nature, have serious objectionable operational characteristics, particularly when concentrated under certain circumstances.
  - b. Special regulations of marihuana facilities have been deemed necessary to limit the intensity and density of this use, and to recognize that separation distances are necessary from certain uses as described in this Section. Medical and recreational marihuana land uses are considered to be not equivalent in land use impacts to nearby sensitive land uses.
2. Separation Distance Measurements. The distances described in this subsection shall be computed by measuring a straight line from the nearest property line of the parcel used for the purposes stated in this subsection to the nearest property line of the parcel used as a marihuana facility.
  3. Applicability. The location and co-location of authorized facilities shall be determined as follows:
    - a. The following minimum-distancing regulations shall apply to marihuana provisioning centers and retailers, except for provisioning centers or retailers co-located in an IT-District, pursuant to 5.9.19.E.4. A provisioning center or retailer shall not be located within:
      - i. 1,000 feet of a child care center, or a school;
      - ii. 1,000 feet of a publicly owned park or playground;
      - iii. 1,000 feet of a religious institution;
      - iv. 1,000 feet of a Substance Use Disorder Program licensed by the State of Michigan;
      - v. 1,000 feet of a Residential Zone District, as defined in this Chapter, as measured along the primary street frontage on which the use is located;
      - vi. 2,000 feet of another provisioning center or retailer location; and
      - vii. 1,000 feet of another marihuana facility location, other than a provisioning center or retailer.
    - b. The following minimum-distancing regulations shall apply to marihuana processors, marihuana growers, and marihuana provisioning centers or retailers co-located in an IT-District pursuant to 5.9.19.E.4. A facility shall not be located within:
      - i. 1,000 feet of a child care center, or a school;
      - ii. 1,000 feet of a publicly owned park or playground;
      - iii. 1,000 feet of a religious institution;



- iv. 1,000 feet of a Substance Use Disorder Program licensed by the State of Michigan;
  - v. 1,000 feet of a Residential Zone District, as defined in this Chapter, as measured along the primary street frontage on which the use is located; and
  - vi. 1,000 feet of another facility location (see 5.9.19.E.4.a.).
4. For the purpose of determining a separation distance described in this section the following definitions shall apply:
- a. A marihuana facility is defined as a location at which the proposed land use has been approved and is effective pursuant to this section. This does not include Secure Transporters or Safety Compliance Facilities.
  - b. School is defined as any building, playing field, or property used for school purposes to impart instruction to children in grades kindergarten through 12, when provided by a public, private, denominational, or parochial school, except those buildings used primarily for adult education or college extension courses.
5. An application seeking land use approval at a location does not foreclose the filing or consideration of an application for another location located within a minimum distance requirement outlined in this section. However, once land use approval has been granted to a marihuana facility no other application within the applicable minimum distance requirement shall be considered.
6. Waiver. The required separation distances between a proposed marihuana facility location and sensitive uses cannot be waived except as allowed in this Section.
- a. Waivers of required separation distances as allowed by this Section are limited to the following marihuana uses:
    - i. Provisioning Center (medical)
    - ii. Grower of any class (medical or recreational)
    - iii. Processor (medical or recreational)
  - b. Sensitive uses that may be considered eligible for a separation distance waiver are only as follows: publicly owned park or playground, religious institution, or a licensed Substance Use Disorder Program.
  - c. The application shall provide evidence that all eligible sensitive uses within 1,000 feet of the proposed marihuana facility location have been notified by the applicant of the intent to seek a waiver from the separation distance requirements. Failure to satisfy this requirement may be grounds to deny a proposed separation distance waiver.
  - d. If an eligible sensitive land use files a written objection with the Planning Department, the Planning Commission may waive the required separation distance, but shall consider the objection at a public hearing, in addition to the standards provided in subsection (e).

- e. If an objection is not filed by an eligible sensitive land use, the Planning Commission may waive the required separation distance in accordance with the standards provided in subsection (e).
  - f. The Planning Commission shall consider whether the proposed distance waiver, if granted, will impair quality of life, damage neighborhood character, discourage commercial retail viability and variety, harm the stability of industrial areas, or have any particularly detrimental effects on the sensitive land use at issue, and whether one or more of the following conditions exist which will reduce potential detrimental impacts if the waiver is granted.
    - i. Exceptional topographic or environmental conditions such as steep slope(s) or a significant amount of mature vegetation; or a fixed and unmovable natural or unnatural barrier, such as a river or similar environmental body, freeway or similar roadway, or extensive berm or wall that cannot be crossed; or
    - ii. The orientation of the sensitive use and/or location of its primary entrance(s) that increases the practical distance of the sensitive use from the proposed facility.
  - g. Waivers previously granted by the Planning Commission for a medical marihuana land use are applicable only to that land use. For addition of, or conversion to, a recreational marihuana land use, any applicable separation distance waivers must be considered and granted by the Planning Commission. The same applies to approved recreational marihuana land uses seeking to add, or convert to, a medical marihuana land use.
- F. Co-Location and Stacked Licenses. There may be only one (1) state operating license per parcel, except co-location and stacked grower licenses are permitted as permitted in 2. and 3. below.
- 1. Once the initial license has been approved the application of separation distance requirements is not applicable. A facility with a stacked grower license counts as a single grower for the purposes of facility separation distance requirements.
  - 2. In Mixed-Use Commercial Zone Districts, as shown in Table 5.6.06.B., a provisioning center or retailer and processor may be allowed in combination. In the IT Industrial-Transportation District, co-location is allowed if each license is for a separate use (other than stacked grower licenses), subject to all applicable state laws, rules and regulations concerning co-location, including but not limited to, LARA requirements for the separation of facilities and GFA requirements in this Chapter.
  - 3. Retailers or provisioning centers may be co-located with a grower or processor as long as the retail GFA is not more than twenty-five (25%) of the combined GFA.
- G. Application Requirements. Each application shall be accompanied by a detailed site plan and any information necessary to describe the proposed use or change of use. Each request shall be considered a new application, including those for class change, stacking, expansion, transfers or other modifications that require Director Review or Special Land Use. If more than one (1) use is being requested for a parcel at the same time (e.g. co-location) only one (1)

application shall be processed. Only one (1) application shall be processed per parcel at a time; once an application is submitted, any other applications for the same parcel will be rejected until the first application is decided. The following shall be submitted as part of an application in addition to the requirements of Section 5.12.09. All items must be satisfactorily completed for an application to be considered eligible for review.

1. Verification. A signed statement by the applicant indicating the proposed facility type, including if the proposed facility type involves stacked licenses or co-location and the number of licenses.
2. Consent. A notarized statement by the property owner that acknowledges use of the property for a marihuana facility and agreement to indemnify, defend and hold harmless the City, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising out of, or in connection to, the operation of a marihuana facility. Written consent shall also include approval of the owner and operator for the City to inspect the facility at any time during normal business hours to ensure compliance with applicable laws and regulations.
3. LARA. A copy of official paperwork issued by LARA as follows:
  - a. For grower, processor, and provisioning center applications: paperwork indicating that the applicant has successfully completed the prequalification step of the application for the state operating license associated with the proposed land use.
  - b. For secure transporter and safety compliance facility applications: paperwork indicating that the applicant has successfully completed the prequalification step of the application for the state operating license associated with the proposed land use, or proof that the applicant has filed such application for the prequalification step with LARA, including all necessary application fees.
  - c. For all marihuana facility applications: required LARA marihuana facility plans and security plans shall be submitted. Copies of all documents submitted to LARA in connection with the initial license application, subsequent renewal applications, or investigations conducted by LARA shall be made available upon request when such information is necessary and reasonably related to the application review.
4. Proof of Insurance. Evidence of a valid and effective policy for general liability insurance within minimum limits of \$1,000,000 per occurrence and a \$2,000,000 aggregate limit issued from a company licensed to do business in Michigan having an AM Best rating of at least B++ shall be produced that includes the name/s of the insured, effective and expiration dates, and policy number. The City of Grand Rapids and its officials and employees shall be named as additional insureds. The City shall be notified of any cancellation, expiration, reduction in coverage, or other policy changes within five (5) business days of the event.
5. Building Elevations. Existing and proposed building elevations shall be provided, including building materials, window calculations, descriptions of glass to be used, and other pertinent information that describes building construction or structural alterations.

6. Site Plan. Existing and proposed site changes must be submitted that demonstrate compliance with this Chapter.
  7. Sign and Lighting Plan. A sign plan for the exterior of the building and any interior signs that will be visible to the public from the public right-of-way shall be submitted with sizes, lighting, and locations. All lighting fixtures visible to the public shall be identified by location, type, and intensity.
  8. Radius. A map, drawn to scale, containing all child care centers, schools, publicly owned parks or playgrounds, religious institutions, Substance Use Disorder Programs, Residential Districts, and any marihuana facilities within one-thousand (1,000) feet of the proposed location.
  9. Crime Prevention Through Environmental Design (CPTED) Plan. The plan shall address surveillance methods, access control strategies, territorial reinforcement, maintenance, and target hardening; including the experience of customers, employees, and neighbors (residents, offices, businesses, etc.). The GRPD shall review the CPTED Plan prior to acceptance of the application and shall approve the Plan prior to the Planning Commission public hearing.
  10. Operations and Management Plan. An operations and management plan shall be submitted. The O&M plan should describe security measures in the facility; this may include the movement of the product, methods of storage, cash handling, etc. See also Section 5.9.19.H.
  11. Good Neighbor Plan (GNP). A GNP shall be submitted in accordance with the requirements of Section 5.12.06.D. and Table 5.9.19.D. An updated GNP may be required for expansion requests and applications for Director Review.
  12. Marihuana Industry Voluntary Equitable Development Agreement (MIVEDA). A MIVEDA may be voluntarily offered and submitted as part of the application. If submitted as part of an application, the terms offered in the MIVEDA will be required and implemented into the final approval of the project. The contents of the agreement shall be developed within the framework of City Commission policy.
- H. Operations. Marihuana facilities must be operated in compliance with all applicable state laws, LARA rules, all conditions of the facility's state operating licenses, and all applicable city ordinances. In addition, such facilities shall comply with the following regulations:
1. Use. Where located in a Mixed-Use Commercial Zone District, the use shall contribute to the vibrancy and walkability of the district. Uses shall be presented as being for retail purposes, unless ground-floor office use is permitted with administrative approval.
  2. Facility Exterior. The exterior appearance of a facility must be compatible with surrounding businesses and any descriptions of desired future character, as described in the Master Plan or an Area-Specific Plan.
    - a. No marihuana or equipment used in the growing, production, sale, processing, or transport of marihuana can be placed or stored outside of an enclosed building. This

- section does not prohibit the placement or storage of motor vehicles outside of an enclosed building so long as money or marihuana is not left in an unattended vehicle.
- b. Site and building lighting shall be sufficient for safety and security, but not cause excessive glare or be designed so as to be construed as advertising with the intent to attract attention. Outdoor lighting will comply with Section 5.2.19.
  - c. Drive-through facilities and mobile facilities are prohibited.
3. Interior of Facility. A facility will not be designed to attract attention, limit the life of the structure in which the facility is located, or create a nuisance.
- a. Interior construction and design of a facility will not impede the future use of a building for other uses as permitted in the assigned zone district.
  - b. Neither marihuana nor marihuana-infused products may be directly visible from the exterior of the facility.
  - c. Interior security measures shall not be visible from the public right-of-way (e.g. security shutters, bars, or other methods) during operating business hours.
  - d. Interior walls between waiting rooms and display areas shall be forty percent (40%) clear glass if the separation wall is thirty (30) feet or less away from the inside of the exterior building wall for the purposes of maintaining an active storefront.
  - e. Interior lighting shall not be so bright so as to create a nuisance to neighboring property owners or passersby.
  - f. Provisioning centers and retailers may not be open to customers between the hours of 9:00 p.m. and 9:00 a.m. The main entry of the business establishment will be wheelchair accessible.
  - g. The separation of plant resin by butane extraction or another method that utilizes a substance with a flashpoint below one hundred degrees (100°) Fahrenheit shall only be allowed in the IT Industrial-Transportation Zone District.
  - h. Ventilation, by-product and waste disposal, and water management (supply and disposal) for the facility will not produce contamination of air, water, or soil; or reduce the expected life of the building due to heat and mold; or create other hazards that may negatively impact the structure and/or surrounding properties.
  - i. Air contaminants must be controlled and eliminated by the following methods:
    - i. The building must be equipped with an activated air scrubbing and carbon filtration system that eliminates all air contaminants prior to leaving the building. Fan(s) must be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three (3). The filter(s) shall be rated for the applicable CFM.
    - ii. Air scrubbing and filtration system must be maintained in working order and must be in use at all times. Filters must be changed per manufacturers' recommendation to ensure optimal performance.
    - iii. Negative air pressure must be maintained inside the building.

- iv. Doors and windows must remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
  - v. An Administrative Departure may be granted for an alternative odor control system, in accordance with the Michigan Mechanical Code, if a mechanical engineer licensed in the State of Michigan submits a report that sufficiently demonstrates the alternative system will be equal to or better than the air scrubbing and carbon filtration system otherwise required.
  - vi. For purposes of this section, “air contaminants” means stationary local sources producing air-borne particulates, heat, odors, fumes, spray, vapors, smoke or gases in such quantities as to be irritating or injurious to health.
- I. Annual fee. A licensee must pay a registration fee of five-thousand dollars (\$5,000), for each license used within the city to help defray administrative, compliance monitoring and enforcement costs. The holder of stacked or co-located licenses must pay a separate fee in the amount of five-thousand dollars (\$5,000) for each license. The initial annual registration fee(s) must be paid when the application for City approval is submitted. In each subsequent year, registration fees are due on the date of the City license approval. Fees assessed for marihuana land use approvals or licensing in addition to, not in lieu of, any licensing, land use or other permitting requirements of any law, state regulatory agency, or by City ordinance.
- J. Violations.
- 1. A marihuana facility shall not be granted a state operating license until the findings and approvals of this Section are completed.
  - 2. Civil infraction. It is unlawful to disobey, neglect, or refuse to comply with any provision of this Chapter. A violation is a municipal civil infraction. Each day the violation continues shall be a separate offense. Notwithstanding any other provision of this ordinance to the contrary, violators shall be subject to fines as determined by the City Commission.
  - 3. Failure to comply with the requirements of this Section shall be considered a violation and may jeopardize the Director or Special Land Use approval and/or license.
  - 4. Consumption. It shall be a violation of this Chapter for smoking, inhalation, or other consumption of marihuana, or for a person to knowingly allow this behavior to take place on or within the premises of any facility. All of the following will give rise to the rebuttable presumption that a person allowed the consumption of marihuana on or within the premises:
    - a. The person had control over the premises or the portion of the premises where the marihuana was consumed;
    - b. The person knew or reasonably should have known that the marihuana was consumed; and
    - c. The person failed to take corrective action.
- K. Loss of State Operating License. If at any time an authorized facility violates this Chapter or any other applicable City ordinance, the City Commission may request that LARA revoke or refrain from renewing the facility’s state operating license.

1. Revocation of Special Land Use approval. Any approval granted for a facility may be revoked or suspended for any of the following reasons:
    - a. Revocation or suspension of the licensee's authorization to operate by LARA.
    - b. A finding by LARA that a rule or regulation has been violated by the licensee. After an automatic revocation of a Special Land Use approval, a new Special Land Use application shall be required for a facility to commence operation at the same location.
  2. Failure to obtain state license. In addition to the requirements stated in 5.12.09.H.(2) or 5.12.16.B.(6), whichever is applicable, if the applicant fails to obtain the necessary license from LARA within the one (1) year approval period or any extension, the Director or Special Land Use approval shall expire.
  3. Cessation of operations. Cessation of operations for one (1) year, including failure to maintain state licenses necessary to engage in the approved land use is cause for revocation of the Director or Special Land Use approval.
- L. Rights. The operation of a licensed marihuana facility is a revocable privilege and not a right, in conformance with applicable state law. Nothing in this Chapter is to be construed to grant a property right for an individual or business entity to engage in the use, distribution, cultivation, production, possession, transportation or sale of marihuana as a commercial enterprise. Any individual or business entity which purports to have engaged in these activities either prior to or after the enactment of this amendment without obtaining the required authorization is deemed to be an illegally established use and is not entitled to nonconforming use status. Nothing in this Chapter may be held or construed to grant a vested right, license, permit or privilege to continued operations within the City.
- M. State Law. Nothing in this Chapter shall be construed in such a manner as to conflict with the MMMA, MMFLA, MRTMA, or other applicable state marihuana law or rules.
- N. Federal Law.
1. Nothing in this Chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that Act and the General Rules.
  2. Also, since Federal law is not affected by that Act or the General Rules, nothing in this Chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under Federal law. The Michigan Acts do not protect users, caregivers or the owners of properties on which the use of marihuana is occurring from Federal prosecution, or from having their property seized by Federal authorities under the Federal Controlled Substances Act.
- O. Receipt of Applications. The Planning Department shall accept complete applications for any recreational marihuana land use that requires a license from LARA in the administration of MRTMA beginning on October 20, 2020. Applications for medical-only marihuana land uses shall be accepted on a continuous basis.

